

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

In re Cablevision Consumer Litigation

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This Document Relates to:  
All Actions

Master File No.  
10-cv-4992 (JS) (AKT)

ECF CASE

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U.S. DISTRICT COURT E.D.N.Y.  
★ JAN 08 2018 ★

PRELIMINARY APPROVAL ORDER

The parties have entered into a Class Action Settlement Agreement dated June 27, 2017 (the "Agreement") to settle the above-captioned lawsuit (the "Action"), and Plaintiffs have filed a Motion for Preliminary Approval of the Proposed Settlement (the "Motion for Preliminary Approval"). The Agreement, together with the documents and exhibits incorporated therein, sets forth the terms and conditions for a proposed settlement and dismissal with prejudice of the Action.

Having reviewed the Agreement and exhibits, the Motion for Preliminary Approval, the pleadings and other papers on file in this action, and statements of counsel, the Court finds that the Motion for Preliminary Approval is **GRANTED** and that this Order should be entered. Terms and phrases in this Order shall have the same meaning ascribed to them in the Agreement.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

1. The Court hereby gives its preliminary approval to the Settlement Agreement, subject to a final approval hearing to be held on May 17, 2018 at 11:00 A.M. before the undersigned (the "Final Approval Hearing") for purposes of deciding whether to grant final approval to the settlement.

2. The Settlement Class shall consist of the Class, which the Court has previously certified in its March 31, 2014 Memorandum and Order, as set forth below, but shall exclude any class member who has opted out of the class as of March 2, 2015 or who opts out of the settlement pursuant to Paragraph 7 below:

All individuals who contracted with Cablevision prior to October 16, 2010, to receive cable television service on or after October 16, 2010. Excluded from the Class are Cablevision's officers, directors, legal representatives, heirs, successors, and assigns; and any judicial officer assigned to this case and his or her immediate family.

3. The Settlement Class shall further be subdivided into the following three sub-classes, which the Court, for the purposes of settlement, preliminarily approves:

- a. "Group A" shall consist of Settlement Class members who, as of 30 days after the date of the Final Approval Order, are current video subscribers of Cablevision with access to Video on Demand.
- b. "Group B" shall consist of Settlement Class members who, as of 30 days after the date of the Final Approval Order, are current subscribers of Cablevision who do not subscribe to video services that provide access to Video on Demand.
- c. "Group C" shall consist of Settlement Class members who, as of 30 days after the date of the Final Approval Order, are former subscribers of Cablevision.

4. The Court finds that the proposed settlement is sufficiently fair, reasonable, and adequate to allow dissemination of notice of the proposed settlement to the members of the Settlement Class. This determination permitting notice to the Settlement Class is not a final finding, but a determination that there is probable cause to submit the proposed Agreement to the Settlement Class members and to hold a Final Approval Hearing to consider the fairness, reasonableness, and adequacy of the proposed Settlement.

5. The Court approves the form of Settlement Notice without material alteration from the form of Exhibit A to the Agreement, and approves the form of Published Notice without material alteration from the form of Exhibit B to the Agreement. The Court directs that: (1) the

Settlement Notice be transmitted by Cablevision to its current subscribers who routinely receive bills via regular mail via inserts to be included in Cablevision's monthly bills to its current subscribers, within sixty (60) days after the date of this Order; (2) the Settlement Notice be transmitted by Cablevision to its current subscribers who routinely receive bills electronically via email attaching the Settlement Notice as a PDF, within sixty (60) days after the date of this Order; and (3) the Published Notice shall be published once, within sixty (60) days after the date of this Order, in the following publications: New York Times, Newsday, Star-Ledger, Home News, New Haven Register, Stamford Advocate, and Gannett Journal News.

6. The Court previously found that providing class notice to current Cablevision subscribers through inserts to monthly billing statements (for those subscribers who receive paper statements), providing notice via email (for those subscribers who receive electronic statements), and providing publication notice for former Cablevision subscribers was appropriate under Fed. R. Civ. P. 23(c)(2). (*See* Dkt. 146, Oct. 7, 2014 Order for Approval of Distribution and Publication of Class Notice.) The Court now finds that the Published Notice and Settlement Notice: (i) are reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Action and of their right to object or to exclude themselves from the proposed settlement; (ii) are reasonable and constitute due, adequate, and sufficient notice to all persons entitled to receive notice; and (iii) meet all applicable requirements of due process and any other applicable requirements under federal law.

7. Any member of the Settlement Class who wishes to be excluded from the Settlement Class must comply with the opt-out procedures set forth in the Published Notice or the Settlement Notice, as appropriate, and submit an appropriate and timely request for exclusion

postmarked no later than forty-five (45) days after the Final Notice Date to the address provided in the respective Notice.

8. Any member of the Settlement Class who does not timely request exclusion as set forth in the Published Notice or the Settlement Notice, as appropriate, shall be preliminarily enjoined: (i) from filing, commencing, prosecuting, intervening in, or participating as plaintiff, claimant, or class member in any other lawsuit or administrative, regulatory, arbitration, or other proceeding in any jurisdiction based on, relating to, or arising out of the claims and causes of action, or the facts and circumstances relating thereto, in the Action and/or the Released Claims, as defined in the Agreement; (ii) from filing, commencing, or prosecuting a lawsuit or administrative, regulatory, arbitration, or other proceeding as a class action on behalf of any members of the Settlement Class who have not timely excluded themselves (including by seeking to amend a pending complaint to include class allegations or seeking class certification in a pending action), based on, relating to, or arising out of the claims and causes of action, or the facts and circumstances relating thereto, in the Action and/or the Released Claims; and (iii) from attempting to effect an opt-out of a class of individuals in any lawsuit or administrative, regulatory, arbitration, or other proceeding based on, relating to, or arising out of the claims and causes of action, or the facts and circumstances relating thereto, in the Action and/or the Released Claims.

9. Any member of the Settlement Class who did not or does not timely request exclusion as set forth in the Published Notice or the Settlement Notice, as appropriate, shall be bound by all proceedings, orders, and judgments in the Action, even if such member of the Settlement Class previously has initiated or subsequently initiates individual litigation or other proceedings encompassed by the Released Claims.

10. Any member of the Settlement Class who did not or does not timely request exclusion as set forth in the Published Notice or the Settlement Notice, as appropriate, and who wishes to object to the fairness, reasonableness, or adequacy of the proposed settlement must file with the Court and mail a copy to all Parties no later than forty-five (45) days after the Final Notice Date, a statement of the objection as well as the specific reasons (if any) for each objection, including any legal support the member of the Settlement Class wishes to bring to the Court's attention and all evidence the member of the Settlement Class wishes to introduce in support of his or her objection or be forever barred from objecting.

11. Any attorney hired by a member of the Settlement Class at the sole expense of the member of the Settlement Class for the purpose of objecting to the proposed settlement shall file with the Clerk of the Court and mail a copy to both Parties a notice of appearance no later than forty-five (45) days after the Final Notice Date or as the Court may otherwise direct. Attorneys who do not adhere to these requirements will not be heard at the Final Approval Hearing.

12. Any member of the Settlement Class who files and serves a written objection and who intends to make an appearance at the Final Approval Hearing, either in person or through personal counsel hired at the sole expense of that member of the Settlement Class, shall file with the Court and mail a copy to the Parties a notice of intention to appear no later than forty-five (45) days after the Final Notice Date or as the Court otherwise may direct. Settlement Class members and their attorneys who do not adhere to these requirements will not be heard at the Final Approval Hearing.

13. Any petition for award of attorneys' fees or reimbursement of litigation costs and expenses shall be filed on or before April 9, 2018. Oppositions to any such petition, if any,



shall be filed on or before April 24, 2018, and replies in further support of any such petition, if any, shall be filed on or before May 4, 2018.

14. A Final Approval hearing shall be held before the undersigned, on a date and time set forth in Paragraph 1, for the purpose of determining: (a) whether the proposed settlement is fair, reasonable, and adequate and should be finally approved by the Court; (b) whether to issue a final judgment without material alteration from the form in Exhibit D to the Agreement, and (c) whether to approve the Attorneys' Fee Award to Settlement Class Counsel as set forth in the Agreement. Plaintiffs' final brief in support of approval must be submitted by April 9, 2018, and Plaintiffs' final brief in response to any objections must be submitted by May 4, 2018.

15. The Court reserves the right to adjourn or continue the Final Approval Hearing, or any further adjournment or continuance thereof, without further notice other than announcement at the Final Approval Hearing or at any adjournment or continuance thereof, and to approve the settlement with modifications, if any, consented to by counsel for the Settlement Class and Cablevision without further notice.

16. All other proceedings in the Action are stayed and suspended until further order of this Court.

Dated: January 8, 2018

  
**/s/ A. Kathleen Tomlinson**  
  
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Hon. A. Kathleen Tomlinson, U.S.M.J.